

REFERENCE TITLE: child molestation; commercial sexual exploitation

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2032

Introduced by
Representative Barnes

AN ACT

AMENDING SECTION 13-604.01, ARIZONA REVISED STATUTES; RELATING TO DANGEROUS CRIMES AGAINST CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-604.01, Arizona Revised Statutes, is amended to
3 read:

4 13-604.01. Dangerous crimes against children; sentences;
5 definitions

6 A. A person who is at least eighteen years of age and who stands
7 convicted of a dangerous crime against children in the first degree involving
8 sexual assault of a minor who is twelve years of age or younger, ~~or~~ sexual
9 conduct with a minor who is twelve years of age or younger, **MOLESTATION OF A**
CHILD WHO IS TWELVE YEARS OF AGE OR YOUNGER OR COMMERCIAL SEXUAL EXPLOITATION
OF A MINOR WHO IS TWELVE YEARS OF AGE OR YOUNGER shall be sentenced to life
10 imprisonment and is not eligible for suspension of sentence, probation,
11 pardon or release from confinement on any basis except as specifically
12 authorized by section 31-233, subsection A or B until the person has served
13 thirty-five years or the sentence is commuted. This subsection does not
14 apply to masturbatory contact.

15 B. Except as otherwise provided in this section, a person who is at
16 least eighteen years of age or who has been tried as an adult and who stands
17 convicted of a dangerous crime against children in the first degree involving
18 attempted first degree murder of a minor who is under twelve years of age,
19 second degree murder of a minor who is under twelve years of age, sexual
20 assault of a minor who is under twelve years of age, sexual conduct with a
21 minor who is under twelve years of age, **MOLESTATION OF A CHILD WHO IS UNDER**
TWELVE YEARS OF AGE, COMMERCIAL SEXUAL EXPLOITATION OF A MINOR WHO IS UNDER
TWELVE YEARS OF AGE or manufacturing methamphetamine under circumstances that
22 cause physical injury to a minor who is under twelve years of age ~~may~~ SHALL
23 be sentenced to life imprisonment and is not eligible for suspension of
24 sentence, probation, pardon or release from confinement on any basis except
25 as specifically authorized by section 31-233, subsection A or B until the
26 person has served thirty-five years or the sentence is commuted. If a life
27 sentence is not imposed pursuant to this subsection, the person shall be
28 sentenced to a presumptive term of imprisonment for twenty years.

29 C. Except as otherwise provided in this section, a person who is at
30 least eighteen years of age or who has been tried as an adult and who stands
31 convicted of a dangerous crime against children in the first degree involving
32 attempted first degree murder of a minor who is twelve, thirteen or fourteen
33 years of age, second degree murder of a minor who is twelve, thirteen or
34 fourteen years of age, sexual assault of a minor who is twelve, thirteen or
35 fourteen years of age, taking a child for the purpose of prostitution, child
36 prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen
37 years of age, continuous sexual abuse of a child, sex trafficking of a minor
38 who is under fifteen years of age, **MOLESTATION OF A CHILD WHO IS TWELVE,**
THIRTEEN OR FOURTEEN YEARS OF AGE, COMMERCIAL SEXUAL EXPLOITATION OF A MINOR
WHO IS TWELVE, THIRTEEN OR FOURTEEN YEARS OF AGE OR manufacturing
39 methamphetamine under circumstances that cause physical injury to a minor who

1 is twelve, thirteen or fourteen years of age or involving or using minors in
2 drug offenses shall be sentenced to a presumptive term of imprisonment for
3 twenty years. If the convicted person has been previously convicted of one
4 predicate felony the person shall be sentenced to a presumptive term of
5 imprisonment for thirty years.

6 D. Except as otherwise provided in this section, a person who is at
7 least eighteen years of age or who has been tried as an adult and who stands
8 convicted of a dangerous crime against children in the first degree involving
9 aggravated assault, ~~molestation of a child, commercial sexual exploitation of~~
10 ~~a minor,~~ sexual exploitation of a minor, child abuse or kidnapping shall be
11 sentenced to a presumptive term of imprisonment for seventeen years. If the
12 convicted person has been previously convicted of one predicate felony the
13 person shall be sentenced to a presumptive term of imprisonment for
14 twenty-eight years.

15 E. Except as otherwise provided in this section, a person who is at
16 least eighteen years of age or who has been tried as an adult and who stands
17 convicted of a dangerous crime against children involving sexual abuse under
18 section 13-1404 is guilty of a class 3 felony and shall be sentenced to a
19 presumptive term of imprisonment for five years, and unless the person has
20 previously been convicted of a predicate felony, the presumptive term may be
21 increased or decreased by up to two and one-half years pursuant to section
22 13-702, subsections B, C and D. If the person is sentenced to a term of
23 imprisonment the person is not eligible for release from confinement on any
24 basis except as specifically authorized by section 31-233, subsection A or B
25 until the sentence imposed by the court has been served, the person is
26 eligible for release pursuant to section 41-1604.07 or the sentence is
27 commuted. If the convicted person has been previously convicted of one
28 predicate felony the person shall be sentenced to a presumptive term of
29 imprisonment for fifteen years and is not eligible for suspension of
30 sentence, probation, pardon or release from confinement on any basis except
31 as specifically authorized by section 31-233, subsection A or B until the
32 sentence imposed by the court has been served, the person is eligible for
33 release pursuant to section 41-1604.07 or the sentence is commuted.

34 F. The presumptive sentences prescribed in subsections B, C and D of
35 this section or subsection E of this section if the person has previously
36 been convicted of a predicate felony may be increased or decreased by up to
37 seven years pursuant to ~~the provisions of~~ section 13-702, subsections B, C
38 and D.

39 G. Except as provided in subsection E of this section, a person
40 sentenced for a dangerous crime against children in the first degree pursuant
41 to this section is not eligible for suspension of sentence, probation, pardon
42 or release from confinement on any basis except as specifically authorized by
43 section 31-233, subsection A or B until the sentence imposed by the court has
44 been served or commuted.

1 H. A person who stands convicted of any dangerous crime against
2 children in the first degree pursuant to subsection C or D of this section
3 having been previously convicted of two or more predicate felonies shall be
4 sentenced to life imprisonment and is not eligible for suspension of
5 sentence, probation, pardon or release from confinement on any basis except
6 as specifically authorized by section 31-233, subsection A or B until the
7 person has served not fewer than thirty-five years or the sentence is
8 commuted.

9 I. Notwithstanding chapter 10 of this title, a person who is at least
10 eighteen years of age or who has been tried as an adult and who stands
11 convicted of a dangerous crime against children in the second degree pursuant
12 to subsection C or D of this section or luring a minor for sexual
13 exploitation pursuant to section 13-3554 is guilty of a class 3 felony and
14 shall be sentenced to a presumptive term of imprisonment for ten years. The
15 presumptive term may be increased or decreased by up to five years pursuant
16 to section 13-702, subsections B, C and D. If the person is sentenced to a
17 term of imprisonment the person is not eligible for release from confinement
18 on any basis except as specifically authorized by section 31-233, subsection
19 A or B until the person has served the sentence imposed by the court, the
20 person is eligible for release pursuant to section 41-1604.07 or the sentence
21 is commuted. A person who is convicted of any dangerous crime against
22 children in the second degree having been previously convicted of one or more
23 predicate felonies is not eligible for suspension of sentence, probation,
24 pardon or release from confinement on any basis except as specifically
25 authorized by section 31-233, subsection A or B until the sentence imposed by
26 the court has been served, the person is eligible for release pursuant to
27 section 41-1604.07 or the sentence is commuted.

28 J. Section 13-604, subsections M and O apply to the determination of
29 prior convictions.

30 K. The sentence imposed on a person by the court for a dangerous crime
31 against children ~~under subsection D of this section~~ involving ~~child~~
32 ~~molestation or~~ sexual abuse pursuant to subsection E of this section may be
33 served concurrently with other sentences if the offense involved only one
34 victim. The sentence imposed on a person for any other dangerous crime
35 against children in the first or second degree shall be consecutive to any
36 other sentence imposed on the person at any time, including child molestation
37 and sexual abuse of the same victim.

38 L. In this section, for purposes of punishment an unborn child shall
39 be treated like a minor who is under twelve years of age.

40 M. For the purposes of this section:

41 1. "Dangerous crime against children" means any of the following that

42 is committed against a minor who is under fifteen years of age:

43 (a) Second degree murder.

1 (b) Aggravated assault resulting in serious physical injury or
2 involving the discharge, use or threatening exhibition of a deadly weapon or
3 dangerous instrument.
4 (c) Sexual assault.
5 (d) Molestation of a child.
6 (e) Sexual conduct with a minor.
7 (f) Commercial sexual exploitation of a minor.
8 (g) Sexual exploitation of a minor.
9 (h) Child abuse as prescribed in section 13-3623, subsection A,
10 paragraph 1.
11 (i) Kidnapping.
12 (j) Sexual abuse.
13 (k) Taking a child for the purpose of prostitution as defined in
14 section 13-3206.
15 (l) Child prostitution as defined in section 13-3212.
16 (m) Involving or using minors in drug offenses.
17 (n) Continuous sexual abuse of a child.
18 (o) Attempted first degree murder.
19 (p) Sex trafficking.
20 (q) Manufacturing methamphetamine under circumstances that cause
21 physical injury to a minor.
22 A dangerous crime against children is in the first degree if it is a
23 completed offense and is in the second degree if it is a preparatory offense,
24 except attempted first degree murder is a dangerous crime against children in
25 the first degree.
26 2. "Predicate felony" means any felony involving child abuse pursuant
27 to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct
28 involving the intentional or knowing infliction of serious physical injury or
29 the discharge, use or threatening exhibition of a deadly weapon or dangerous
30 instrument, or a dangerous crime against children in the first or second
31 degree.